

Cook (A. B.)

REPLY

TO THE ACTION OF THE

College of Physicians & Surgeons,

OF LOUISVILLE, KY.

BY A. B. COOK, M. D.,

Professor of Surgery, Kentucky School of Medicine.



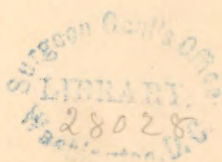
TERRELL, HAYS & CO., PRINTERS, FOURTH STREET, NEAR MAIN.

1871.

REPLY TO THE ACTION
OF THE
COLLEGE OF
Physicians & Surgeons
OF LOUISVILLE, KY.

BY A. B. COOK, M. D.,

Professor of Surgery, Kentucky School of Medicine.



LOUISVILLE:

TERRELL, HAYS & CO., PRINTERS, FOURTH STREET, NEAR MAIN.

1871.

REPLY.

To the College of Physicians and Surgeons.

The members of the above-named College of Physicians and Surgeons—a medical society in this city—have voluntarily taken upon themselves the responsibility of not only expelling, but of attempting to utterly annihilate professionally, the writer of this article. However much my nature shrinks from imposing myself on the general reader, the gross attempt which has been made to injure me in this community, in which I have so long lived, will justify this my appeal to the public, which has been delayed in consequence of sickness. In making this appeal, I beg leave to submit the following recital of facts:

November 19, 1870, I received a note from the Corresponding Secretary of the Society that charges were preferred against me for violation of section 7, article 1, Code of Medical Ethics. November 25, 1870, I received a note to meet the Board of Censors. This note was not signed officially, and no notice was taken of it. November 26, 1870, I received a polite note from the Secretary of the Board of Censors, requesting me to communicate with them, by note or in person, on the 29th instant. To which Board, through the Secretary, I replied as follows:

G. W. Burton, M. D., Secretary Board of Censors:

DEAR SIR: In reply to your note I would state that some sixteen months ago, in consequence of dissensions among the members of the College of Physicians and Surgeons, I absented myself. Since that time I have attended no meeting, have paid no dues, and do not now consider myself a member of the College.

Respectfully yours,

A. B. COOK.

On the memorable night of December 1, 1870, the College met. What the Honorable Board of Censors reported, does not appear, but what the College did will be learned from the following whereases and resolutions:

COLLEGE OF PHYSICIANS AND SURGEONS, }
LOUISVILLE, KY. }

At a regular meeting of the College of Physicians and Surgeons, held December 1, 1870, charges having been preferred against Dr. A. B. Cook, at a previous meeting, the following preamble and resolutions were adopted:

WHEREAS, It is certain beyond a doubt, from the testimony furnished the Board of Censors of this College, and to this College in Committee of the Whole, that Dr. A. B. Cook is guilty of violating Section 1, Article 7, of the Code of Ethics adopted by the American Medical Association, in charging \$3 for examining applicants for life insurance, the fee being fixed at \$5 by the Faculty of this city; and whereas, the said Dr. A. B. Cook has indicated his intention to continue the same unprofessional and highly reprehensible conduct; therefore,

1. *Resolved*, That the said A. B. Cook be, and he is hereby expelled from this College.
2. *Resolved*, That the members of this College are forbidden to hold any professional intercourse with Dr. A. B. Cook while this sentence of expulsion stands against him, or with any other physician who does not charge the regular fee of \$5.
3. *Resolved*, That members of this College will give no certificate of professional opinion in regard to the insured or applicants for insurance, to any Company paying less than \$5 for their examinations.
4. *Resolved*, That these resolutions be spread upon the minutes of this College, and that a copy be furnished Dr. A. B. Cook, to each member of the profession in the city, to the Secretaries of the National and State Associations, to all the local Medical Societies in the State, and to the Home Offices of all Insurance Companies having an agency in this State.

W. H. GALT, President.

D. T. SMITH, Recording Secretary.

B. V. COWLING, Corresponding Secretary.

I did not receive any official notice of this action until December 31, one month after the date of expulsion. It is true the College, one week after expelling me and ordering the publication of the resolutions, rescinded its action to give me an opportunity to retract; but in the meantime the publication was made, a copy of which I saw when too sick to read it. This gratuitous, charitable action on the part of the College was only adding insult to injury.

In order to avoid the accusation of being unprofessional, I give the names of those who voted for the resolutions, viz: Doctors J. Kellar, Goodman, T. Anderson, Ed. Richardson, Burton, R. C. Hewitt, D. W. Yandell, L. P. Yandell, jr., Lewis Rogers, C. Rogers, G. Griffith, Cowling, Polk, Forrester, Thruston, Vaughan, Reynolds, G. W. Ronald, W. H. Galt, and Smith, twenty in all.

One member, who is as jealous of the interests and honor of the profession as any one could be, condemned the action as

hasty, rash, and unwise; and in voting against the resolutions, he believed that he expressed the sentiments of the vast majority of the profession throughout the country.

I have not asked the gentlemen for the privilege of using their names, but hope they are generous enough to allow me the honor of returning a compliment.

More than one-third of these gentlemen were interested in making examinations for life insurance companies. The reader can decide whether the judgment of any one was biased through personal motives.

The resolutions are based on Section 1, Article 7, Code of Medical Ethics, which reads:

"ARTICLE VII.—*Of Pecuniary Acknowledgment.*

"Sec. 1. Some general rules should be adopted by the Faculty, in every town or district, relative to *pecuniary acknowledgment* from their patients; and it should be deemed a point of honor to adhere to these rules with as much uniformity as varying circumstances will admit."

It will be perceived from a strict construction of the above section that it is altogether general in its scope, and binds no one to any specific fee for medical service. The spirit of the article refers more particularly to a conventional rate of fees in ordinary practice, in order to prevent physicians privately taking undue advantage of each other by underbidding.

This does not apply to Insurance Companies or public institutions, for in these the fees for specific services, or salaries per year, are fixed and known to the public.

That the above is a fair and just interpretation of the article is proven by a quotation from Chapter III, Article 1, Section 3 of the Code of Ethics. After enumerating certain charitable services, it says:

"Nor can it be justly expected of physicians to furnish certificates of inability to serve on juries, to perform military duty, or to *testify to the state of health of persons wishing to insure their lives*, obtain pensions, or the like, without a pecuniary acknowledgement. But to individuals in indigent circumstances, such professional services should always be cheerfully and freely given."

It was on the flimsy pretense furnished by the context of the Article first quoted that this august body deigned to hurl its anathemas against me, designing thereby to secure my total social and professional ruin. These ungenerous and vicious resolutions—the publication and circulation of which among

non-professional persons,—which was of itself a gross violation of the spirit of the Code of Ethics—were acted upon soon after the reading of my note addressed to the Board of Censors. Common courtesy would have suggested a postponement of such arbitrary action, at least until the question was settled whether or not I was a member of the College. An adjournment "*sine die*," without any provision in the Constitution to provide for such an emergency, is, according to the judgment of the best parliamentarians, a virtual breaking up of the Society.

I will now give a brief recital of the past history of this unfortunate College.

The Constitution of the College requires weekly meetings to be held; and this Constitution cannot be altered or amended, except by a proposition in writing, proposed at one stated meeting, and the approval of two-thirds of the members present at a subsequent stated meeting. The meetings of the College were suspended during the war. It was reorganized in the spring of 1866. September 2, 1867, the College adjourned, but did not meet again until November 11, 1867, when it held a brief session, and again adjourned in regular form. After this meeting, the College was disbanded—virtually dead—and nothing more was heard of it until the meeting for reorganization, January 4, 1869. Regular meetings were held during the spring and summer of 1869; but the great majority of them were stormy, the discussions on medical ethics between the antagonizing parties were bitter and personal—so much so that some members left the College. These strifes culminated September 9, 1869, by a motion to adjourn *sine die*, which was carried almost unanimously in full meeting. This was my last appearance at the meetings of the College. I have been informed that it did not meet again until January, 1870, when new officers were elected. During this suspension many of the members formed a new society, which held its regular weekly meetings.

I left the College, weary and disgusted with the angry discussions and dissensions among the members, and sought quietude and retirement from such unpleasant and unprofessional scenes. After the reorganization, I did not claim my membership, and did not think a formal resignation necessary to sever my connection with the College. Had I thought for a moment

that such irregularities did not, technically considered, release me from membership, my resignation would have been handed in long ago. On this ground I claim that the reorganized College had no right to take this hasty and specific action against me without explanation. First, justice demanded this of the Board of Censors; second, the right to a formal withdrawal, instead of the vindictive resolutions of expulsion, which only reflect disgrace on their authors and promulgators.

It will be observed that in less than two years the College was twice broken up, abandoned, and deserted by its own members.

We will now call attention to the great bone of contention—the alpha and omega of the present disturbances—the key to the ostracism against myself, viz: The history of the *fee* charged for examination for life insurance. Truth is stranger than fiction, and brains surmounted by gray hairs some times forget their action in the past.

In 1859 a fee-bill was published with the following title:

A SCALE OF FEES,

ADOPTED BY THE

PHYSICIANS OF LOUISVILLE,

To be observed from and after the 1st day of July, 1859.

Item No. 18 of this bill says: Opinion for life insurance, \$5. This document is signed by sixty-eight physicians of Louisville.

On July 1, 1864, a general meeting of the physicians was called, which convened in the old Council Chamber, corner Sixth and Jefferson streets. At this meeting the fees for ordinary daily visits and other special services were advanced from 50 to 100 per cent.; item No. 18, opinion for life insurance, \$5, was still retained, with many others, unchanged. To meet these latter items, the following provision was added: "For all other services, 50 to 100 per cent., at the discretion of the physician, above the rates as set forth in the schedule adopted July, 1859." The reader will observe that, in 1859, the fee for examination for life insurance was fixed at \$5, and by virtue of the amended fee-bill in July, 1864, the medical examiner had the right to charge \$5.50 or \$10, at his discretion, for each examination. If the practitioner took advantage of this discretion in ordinary

practice, he ought, in justice, to have claimed the same for all examinations for the Insurance Companies. What medical examiner claimed the benefits of the "discretion?" What medical examiners even charged \$5? Did not all the physicians, with perhaps one or two exceptions, make such examinations for \$3, not only after July, 1864, but during the war, when gold ranged from 100 to 150 per cent., which would virtually reduce the fee to two dollars, or less, for each examination?

From July, 1864, a quietus reigned until July 10, 1866, when the following committee, viz: Drs. R. C. Hewitt, Coleman Rogers, and J. Maurie Bodine, was, on motion of the College, appointed to notify the various Insurance Companies represented in this city, that hereafter the fee for each medical examination for life insurance would be \$5. So far as my inquiries have extended, no companies ever received this notice, which was ordered by a vote of the College. The committee did not see proper to carry out instructions, but on July 25, 1866, the venerable chairman reported to the society that the usual fee for such service in the several large cities of the country was only \$3, and on his recommendation the College resolved that the fee in future for examination for life insurance be \$3. This was the first time, since the adoption of the fee-bill in 1859, that the obligation to charge \$5 for this service was rescinded.

Now, will the committee explain why, on the 10th of July, 1866, it was worth \$5 to make an examination for life insurance, and on July 23, 1866, the same service was only worth \$3? Why did the examiners for the regularly established companies in this city violate this special provision of the fee-bill from 1859 to July, 1866, by charging only \$3? What member of the College was ever reprimanded or expelled for infidelity to fulfill his obligations?

The action of the College, July 23, 1866, legalized the \$3 fee, and so it remained until May 19, 1870, when the votaries of medical science were visited by an Aladdin, and in one single night, services for professional skill in life examinations advanced 66 $\frac{2}{3}$ per cent., for, on May 20, 1870, \$5 was demanded for opinions on life insurance which the day before were quoted dull at \$3, market price. On the same principle, a merchant to-day might ask \$3 for a yard of cloth, and to-morrow demand \$5; the grocer might one day ask only \$7 for a barrel of flour, and

the next morning astonish his customers by insisting on \$11.66½. The market woman to-night sells a pound of butter for 40 cents, to-morrow morning she listens to nothing less than 66½ cents. No protective association could conceal such trickery and intrigue. In this connection I would state that I have not underbid or violated any obligation to the medical profession, but have continued to charge the fee which is almost uniform throughout the country. On what pretext did the College demand increased fees from the Insurance Companies? The answer is brief. In May, 1870, in the American Medical Association which met in Washington City; some member offered a resolution that the Association *recommend* that a fee of \$5 be charged for each examination for life insurance, which, *of course*, was carried by a large majority. Grasping at this straw—the recommendation—the Medical Society of this city in its *misguided* wisdom, resolved that \$5 should from that time be the fee; and woe be to the doctor who *dared* to adhere to the regular established rate! As I had not attended any meetings of the College for more than a year, I did not hear of this action for several days after my expulsion.

If the doctors who had been appointed by the Companies to make examinations could not afford to serve them for the usual and almost uniform fee, why not resign in preference to making a fruitless attempt to coerce the Companies into their arbitrary measures? The regular fee for visiting a patient is \$3—often \$2, or \$1, or nothing, which service requires more time and skill, and frequently involves the life and future health of the patient. In the former the responsibility ceases with the examination; in the latter it only ends with the convalescence of the patient or death.

Now, if it is worth \$5 in life insurance, why is medical service not worth equally as much where the life of a patient is involved?

The mere recommendation of the American Medical Association imposes no obligations; and if it is not complied with, the Association does not regard it as any violation of the Code of Ethics, which the College worships so devotedly, *when convenient*. In proof of this we cite the action of the Association at New Orleans in 1869, when it resolved to recommend that the minimum fee for a full course of medical lectures be \$120. At

this meeting the eminent and distinguished gentleman who was elected President, then and now holds a Professorship in a school that only charges \$40, while the great majority of the medical schools in the West do not adopt the suggestion. What Medical Faculty has ever been censured, reprimanded, or expelled from the Association for disregarding this recommendation? As a beautiful illustration of consistency, I would mention that a few of the memorable twenty members who voted for my expulsion are now holding Professorships in a cheap school, entirely disregarding the action of the American Medical Association in 1869, and further, that these same Professors are permitted to hold their membership in the College of Physicians and Surgeons.

But to return to the fee-bill. In 1866, the College, after voting \$5, resolved that \$3 was sufficient recompense, for the reason that this was the uniform rate in the principal cities of the country. The same is true at the present time. Letters from New York City, Pittsburg, Cleveland, Cincinnati, St. Louis, and other cities, inform me that \$3 is the usual fee. I have only acted on the same principle that the members of the College did on July 23, 1866. Yet, on the 1st of December, 1870, I, an ex-member, am expelled for doing what the members did by vote in 1866, and for what many of them had been doing from 1859, in direct violation of their pledges; and I have in my possession evidence that several members of the College—and some of those who had the audacity to vote for my expulsion—have been making examinations for \$3, since the College adopted the peremptory rule in last May, to charge \$5. Further, it appears from the records that two-thirds of those who voted for my expulsion, December 1, 1870, were members in 1866, viz: Lewis Rogers, R. C. Hewitt, John Thruston, G. W. Ronald, D. W. Yandell, Jno. Goodman, Coleman Rogers, L. P. Yandell, jr., W. H. Galt, E. J. Vaughan, William Forrester, Ed. Richardson, Turner Anderson—all of whom then cordially acquiesced in the \$3 fee.

What a striking example of inconsistency! What a sad commentary on the fallibility of human opinions!

But the winter of 1870 gave birth to the great quadrennial spasm of this Society. Some one must be immolated on the altar of professional etiquette. They did not look upon each other and say, "Is it I?" but they look abroad and arraign one

who had not been in the sheep-fold for over one year, and of him they make the sacrificial offering. Hope they have enjoyed the feast. All I have to add in this connection is, "let he who is innocent cast the first stone," and "pluck the beam out of your own eyes, before you cast the mote out of your brother's.

A few words respecting the resolutions:

The first speaks for itself, and is the occasion of this article.

The second is designed to exclude me from fellowship with all members of the profession, who are disposed to act as foolishly as the *members* who voted for it. If this resolution does not stultify its votaries before any sensible community, it will be difficult to define what insanity means. It is said Balaam owned one ass, but this resolution would indicate that there were several bipeds of this species in the College, December 1, 1870. Balaam's ass opened its mouth and spake; so did the College, *vide* resolutions.

I have been a hard worker, and a devotee to the profession, and will be equally so in the future.

I have always treated my medical brothers with respect, and expect to do so hereafter. I have never taken advantage of any one by *underbidding*, but have depended for success on my own merits. I still have my friends in the medical profession, and if these twenty doctors and their adherents decline to consult with me, I can assure my patrons and friends, and the public, that there are other eminent gentlemen in the city, in whose *medical skill* I have equal confidence, and who will be ready at any time to consult with me when called upon.

The absurdity of the third resolution is only equaled by its puerility. The purport of it is, that if a husband insures his life in a Company which pays the Medical Examiner \$3, and he dies, the doctor attempts to deprive his poor widow and orphan children of the insurance money by refusing to sign the certificate of his death. Who but the memorable twenty would have conceived the idea of withholding this last pittance from the heart-broken widow and penniless orphans? Such conduct is neither humane nor Christian. Such a resolution might possibly be carried out among the Hottentots, but it will not do among the enlightened, civilized and Christian people of Louisville. The doctor who attempts such an outrage, if known, will be *hissed* out of this community.

It is to be hoped that all the parties to whom the last resolution directs this precious document to be sent, will enjoy its reading as much as myself. Had it been surrounded by a group of the portraits of its advocates, it would have been complete, and decidedly more ornamental than useful as a souvenir to the memory of disappointed ambition. In order to expose more fully the absurdity of the resolutions, I will quote a part of Article 9th, Section 1st, of the Constitution of the College: "For the *election of officers*, or *reprimanding* or *expelling* of members, fifteen Fellows (*members*) shall be necessary to a quorum." If this *would-be* authoritative College had only applied the same *despotic rule* which it so willfully did in my own case to all its legitimate members who have violated the requirements of the Code of Ethics, there would not have been a *quorum* left to transact business, and a diminutive minority only would have remained to sing its requiem and inscribe on its monument, SUICIDE.

In connection with the Insurance Companies represented in this city that determined to resist the demand for \$5, and adhere to the old and uniform rate of \$3, there are high-toned, liberal gentlemen, viz: Professor J. Lawrence Smith, M. D., General S. B. Buckner, and others, who would scorn to take any undue advantage of the medical profession, but who are willing to give a compensation that will do justice both to the physician and the policy holders, whose interests the officers represent.

Mutual Life Insurance Companies are not composed of the rich and affluent. These do not need such protection. But they are made up principally of the mechanics, the laboring men, the farmers, the traders, and merchants, whose business is precarious, owing to fluctuations in trade and commerce, and every one who takes out a policy becomes a stockholder. The object of this insurance is to secure a livelihood to wife and children, who may at any time by accident, be left penniless. Each policy-holder is as much interested in looking to the expenses of his company as he is in the daily outlays of his household. It is further greatly to the advantage of all those who wish to insure their lives, to select the companies whose officers look as well to the interests of the poor man or policy-holder, as to the pecuniary aggrandizement of the medical profession.

Facts and figures will better explain this advice. The new policies issued by the various companies represented in the State of New York in 1869, as shown by the report of the New York Insurance Commissioner, numbered (250,189) two hundred and fifty thousand one hundred and eighty-nine. Had the officers of the Life Insurance companies represented in this report paid \$5 for each examination, the additional annual expenses to the policy-holders would amount to (\$500,378), more than half a million. Take half a million of dollars as the average yearly additional expenses, and compute the interest of this sum at 7 per cent., the legal interest in the State of New York, and in ten years it would subject the policy-holders to a loss of (\$7,380,000) seven million three hundred and eighty thousand dollars.

In conclusion, where did this effort to crush me first germinate? In the Physicians' Protective Association, organized in this city May 25, 1870, many of the members of which are also members of the College of Physicians and Surgeons. On principle, I refused to join the Association. I was first solicited to give my name, and then *threatened* if I did not become a member, the Association would not recognize or consult with me. My reply was that I had always acted the gentleman in my profession, and expected to do so in the future, and if the Protective Association refused to recognize me because I did not approve of its aims and objects, I could not help it. The object of the Association was to establish a grand monopoly, and place every medical interest under its supreme control. It determined that, in consequence of license imposed on doctors by the new city charter, none of its members should attend the charities of the city without a *moderate* compensation—*heaped measure*. Some of the members of the Association are now serving, gratuitously, the charities of the city, and are glad to get the places.

The following fees demanded of the City Council by a resolution of the Association, will show the animus of the organization:

1. For attention upon any city institution requiring daily visits, \$1,000 per annum.
2. For the same for a shorter period than one year, \$100 per month.
3. For occasional or irregular attention to same, \$3 per visit.
4. For services at any Hospital in the capacity of resident surgeon or physician-in-chief, not less than \$1,000 per annum and board.
5. For the same in the capacity of assistant surgeon or physician, not less than \$1,500 per annum and board.

6. For attendance upon dispensaries belonging to the city in the capacity of chief physician or surgeon, where the requisite attention does not exceed two hours daily, not less than \$1,000 per annum.

7. For the same in the capacity of assistant surgeon or physician, not less than \$500 per annum.

8. For services in dispensaries and attention to the *poor*, when the whole time of the physician is required to be devoted thereto if necessary, not less than \$2,000 per annum.

9. For the same where he is prohibited from giving any time to general practice, not less than \$3,000 per annum.

10. For services as Health Officer, (*i. e.*, officer-in-chief of the Board of Health,) not less than \$3,000 per annum.

11. For services as Sanitary Inspector, Health Warden, or officer next in rank to the chief of said Board, when a general practice is prohibited, not less than \$2,000 per annum.

12. For the same, when general practice is not prohibited to this incumbent, not less than \$1,500 per annum. Physician to the Eastern District, \$2,500. Physician to the Western District, \$2,000.

After the list of salaries and several other resolutions, comes the following pledge:

"We, therefore, physicians of the city of Louisville, hereby pledge our honors to act in accordance with the above resolutions, and will not meet in *consultation* or hold *professional fellowship* with any physician who may fail to be guided thereby, or who may refuse to signify his willingness to adhere to their requirements by subscribing his name thereto."

The reader will observe the coincidence in the language between the pledge and the second resolution of expulsion. The pledge was made May 25, 1870, the resolution was offered December, 1, 1870. The minimum salaries, which the Association pledged itself to stand by or "die in the last ditch," as set forth in the schedule, would only cost the city of Louisville, annually, the moderate sum of (\$23,103) twenty-three thousand one hundred and three dollars.

The city already thinks the charities are expensive enough. What say *tax-payers* to an additional item of \$23,103 for medical services, which are now given free of charge? Evidently the result of the enforcement of these resolutions would be to exclude the younger members of the profession from these positions, and place them in the hands of the older members.

The action of the Protective Association ignored the existence both of a City Council and a Committee on Salaries. The Protective Association seized the phantom crown, and assumed the authority of a Dictator. Which will conquer—the city or the Association—remains to be seen.

The secret of this disturbance among the doctors depends on one of two things—either there are too many physicians for the

number of patients, or the citizens do not accommodate themselves to the wants of the profession by getting sick often enough to keep all the doctors actively employed.

After this resumé of the animosity, vindictiveness, and pre-meditated persecution of myself by the College of Physicians and Surgeons, the general reader will naturally conclude that such judgment was unbecoming the members of a humane and generous profession. The question suggests itself—who has been disgraced, Dr. A. B. Cook or the College of Physicians and Surgeons?

The facts are before the public, let the public judge.

A. B. COOK, M. D.

